

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 02-CR-147

TRENISE CAROL BLAYLOCK,

Defendant.

DECISION ON LIMITED REMAND

This case is before the court following the June 28, 2005, LIMITED REMAND order of the Seventh Circuit Court of Appeals, for consideration of whether a different sentence should be imposed on the defendant under the now-advisory United States Sentencing Guidelines. As a consequence, this court has considered the memorandum filed by defense counsel on July 29, 2005, the *pro se* re-sentencing memorandum filed by the defendant on September 6, 2005, in addition to the records and files in this case. Therefore, the court notes the following.

The defendant's sentencing hearing was held on February 20, 2003. At that time, this court determined that she was at Offense Level 25 and Criminal History Category I. Moreover, the court found that joint and several restitution totaling \$19,008.53 should be paid to the Guardian Credit Union and Kelvin Morgan for losses that they incurred as a result of the robbery underlying the defendant's conviction. The government asked this court to grant the defendant a two level downward departure because she had provided the government with substantial assistance in the prosecution of others. The defendant argued for a three level departure. In sentencing the defendant, this court found that the defendant had provided substantial assistance to the government, granted the government's motion for a downward departure under U.S.S.G. § 5K1.1, then departed downward three levels, as the defendant requested.

As a result, this court committed the defendant to the custody of the United States Bureau of Prisons for two concurrent forty-one month terms as to Counts one and two of the indictment charging her with Armed Bank Robbery and Conspiracy to Commit Armed Bank Robbery. A consecutive term of one-hundred twenty months was imposed as to Count three of the indictment for Use of a Firearm During a Crime of Violence, as required by statute, for a total sentence of one-hundred sixty-one months. Additionally, the defendant was placed on supervised release for a term of five years as to count one, three years as to count two and five years as to count three, with all supervised release to run concurrently, for a total of five years. Joint and several restitution was ordered to be paid to the Guardian Credit Union in the amount of \$18,303.53 and to Kelvin Moran in the amount of \$705.

Subsequently, the United States confessed error in Seventh Circuit Case No. 03-2325, *United States v. Weylin M. Shurn*, a co-defendant, regarding the loss calculation underlying his joint and several restitution order. Therefore, the Court of Appeals vacated Weylin Shurn's judgment of conviction on June 24, 2004, and remanded his case for resentencing. As a consequence, Weylin M. Shurn was resentenced on June 3, 2005, and restitution was ordered in the amount of \$4,542.80.

In view of the foregoing, this court would not impose a different sentence on defendant Blaylock under the now-advisory guidelines, except as to the restitution order which requires this defendant to pay restitution of \$19,008.53 rather than \$4,542.80.

Dated at Milwaukee, Wisconsin, this 2nd day of November, 2005.

BY THE COURT

s/ C. N. CLEVERT, JR.
C. N. CLEVERT, JR.
U. S. District Judge